



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,834	02/02/2004	Nikolai M. Krivitski	86017.000038	9076
23387	7590	01/29/2009		
Stephen B. Salai, Esq. Harter Secrest & Emery LLP 1600 Bausch & Lomb Place Rochester, NY 14604-2711			EXAMINER WINAKUR, ERIC FRANK	
			ART UNIT	PAPER NUMBER
			3768	
			MAIL DATE	DELIVERY MODE
			01/29/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10769834	2/2/04	KRIVITSKI ET AL.	86017.000038

Stephen B. Salai, Esq.
Harter Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester, NY 14604-2711

EXAMINER

Eric F. Winakur

ART UNIT	PAPER
3768	20090128

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The amendment filed on 12/19/08 changing the scope of at least claims 1 and 16 and those that depend therefrom, to a non-elected invention is non-responsive (MPEP § 821.03). The amended claims are not readable on the originally elected invention because the specification clearly indicates in the "Calibration" section that a "first" preferred method (see paragraph 0058) is the method as set forth in the amended claims where there is a change in the ultrafiltration rate, and that "another" method involves employing an indicator that dilutes the density of blood passing through the tubing (see paragraph 0065), as was originally set forth in the claims of the application. Further, it is noted that this application was filed as a DIV in which an election between these two embodiments was set forth in a parent application. As such, Applicant has improperly shifted the claimed subject matter to an alternate embodiment.

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric F. Winakur whose telephone number is 571/272-4736. The examiner can normally be reached on M-Th, 7:30-5; alternate Fri. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 571/272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eric F Winakur/
Primary Examiner, Art Unit 3768